

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

Linnell Taylor & Associates, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

D. Trueman, PRESIDING OFFICER

R. Roy, MEMBER

B. Jerchel, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

ROLL NUMBER: 040088205

LOCATION ADDRESS: 142 Bowridge Dr. NW.

HEARING NUMBER: 62735

ASSESSMENT: \$2,300,000

This complaint was heard on 28th day of June, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *T. Sheridan*

Appeared on behalf of the Respondent:

- *Tina Neal*

Board's Decision in Respect of Procedural or Jurisdictional Matters:

There were no procedural matters with respect to this hearing.

Property Description:

The subject property is a single-story industrial type building occupied by Windsor plywood. The property was constructed in 1991, contains 11,045 ft.² and is situated upon 2.66 acres of land roughly 30% of which slopes into a ravine at the rear of the property. The property has been the subject of redevelopment zoning which was firstly DC(Direct Control District] and has most recently been designated CR-3, which is the equivalent of the former C6 zoning. The site is located in close proximity to the trans Canada Highway and within a neighbourhood which has seen recent new development of commercial properties.

Issues:

Does the Direct Comparison Approach using sales of redevelopment sites provide the best indication of Market Value for the subject property.

Complainant's Requested Value: \$1,550,000

Complainant's position:

The Complainant argued that the subject property should not have been assessed using a Direct Comparison Approach to value for various reasons but mainly because the City Assessor had not presented a Highest and Best Use study in support of their assessment. They said that the property was constrained by the requirements in a bylaw numbered 92Z95 which pertained to its DC zoning. Also, that it lacked suitability for new commercial development because it's access from and visibility to the busy Trans Canada Highway was limited and that the assessor had the responsibility of considering the improvements based upon the requirements of Municipal Government Act section 289(2)(a). He said that using the alternative Income Approach to Value indicated a market value of \$1,550,000. He opined that using input criteria from office warehouse properties and from industry published reports on such properties located in the northeast and southeast industrial areas of Calgary was correct in the absence of similar such properties in the northwest part of Calgary. He also presented a Direct Comparison Approach again using Northeast office warehouse buildings which, in a size and age range similar to that of the subject property, yielded value indications of between \$114 and \$136 a square foot, as against the subject assessed value of \$208.24 per Sq. foot. The Complainant

went on to present the sale of a land only redevelopment site located in very close proximity to the subject. He pointed out that this site had an identical 2.66 acres of land area and that this site advertised demolition of existing improvements for redevelopment. It was also subject to the same zoning bylaw as the subject and furthermore it had the same ravine influence as the subject. The sale price of this comparable was \$1,550,000 thus requiring no adjustment to the requested assessment amounts for the subject. Lastly, the Complainant presented a property which contained a former small Safeway store and which was situated on 0.92 acres of land in the same general neighbourhood as the subject. In order to adjust this smaller land area to the subject, the Complainant first deducted the ravine or undevelopable area from the subject and grossed the equity comparable up by an amount equal to that unit land sale value of 60 Bowridge Dr. above resulting in an indicated value of \$1,560,000.

Respondent's position:

The Respondent first criticized the Complainants input criteria with respect to his Income Approach Valuation saying that his forecast NOI and applied capitalization rate were incorrect. She said that the comparables used were in clearly industrial areas of the City, unlike that of the subject, and in addition, the Complainants analysis of their financial performance produced incorrect income and capitalization rate conclusions. The Respondent testified that the zoning for the subject property was currently C-R3 (Commercial Regional 3 District) and that her responsibility for fairness required that she determine the most probable selling price based upon the use that will produce the greatest return. In this regard she produced a total of 17 CARB decisions which confirmed the City's use of a land value only, for assessment purposes, for redevelopment land. Finally she said that it was the duty of the Complainant to present a Highest and Best Use study in support of their claim.

Board's Decision in Respect of Each Matter or Issue:

The Board accepts valuation theory that says that when reasonably comparable land sales support a value for a site that is in excess of the value indicated from the use as it is presently improved then the subject's Highest and Best Use is as a redevelopment site. Given that the Municipal Government Act S285 requires that *'each municipality must prepare annually an assessment for each property'* and Matters Relating to Assessment and Taxation and Regulation 220/2004 requires in Part 1, Standards of Assessment (2) *An assessment of property based on market value (a) must be prepared using mass appraisal* then the Board accepts that the duty to perform a Highest and Best Use analysis in support of a complaint falls on the Complainant.

The Board was persuaded by the sale of the comparable land at 60 Bowridge Dr. NW. located virtually next door to the subject property and containing the identical amount of land area. This property was purchased in October of 2009 for \$1,550,000 for redevelopment. According to published information demolition had occurred and a new retail development had been applied for. Published information also revealed that due to the ravine influence a somewhat lesser land area (50%) was available for redevelopment than had been calculated for the subject property (70%). It was therefore possible to establish that roughly \$27 a square foot was paid for usable site area and applying this number to the usable site area of the subject property yielded a value of roughly \$2,170,000. This value indication represented a 5.6% departure from the assessed value but appears to within an acceptable range of values and as such represents an insufficient amount of change to alter or vary the assessment.

The Board also accepted the proposition of the Respondent that the Complainants comparison of his subject property to industrial properties in the northeast and southeast parts of the City and his comparison to a much smaller equity comparable in the neighbourhood lacked

reasonableness on which to base a lowered assessment.

Board's Decision:

The assessment is confirmed at \$2,300,000.

DATED AT THE CITY OF CALGARY THIS 20 DAY OF July, 2011.


D. Trueman
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Colored photos
3. C3	Rebuttal
4. R1	Respondent Disclosure

An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.

Any of the following may appeal the decision of an assessment review board:

- (a) the complainant;*
- (b) an assessed person, other than the complainant, who is affected by the decision;*
- (c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*

- (d) *the assessor for a municipality referred to in clause (c).*

An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to

- (a) *the assessment review board, and*
- (b) *any other persons as the judge directs.*